

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRADLEY ALLEN GRUBHAM,  
Petitioner,  
v.  
MICHAEL OBENLAND,  
Respondent.

CASE NO. 13-5646 RJB JRC

ORDER ON PETITIONER'S  
MOTION TO HOLD  
DEPARTMENT OF  
CORRECTIONS IN CONTEMPT  
OF ORDER

This matter comes before the Court on the Petitioner’s “Motion to Hold Department of Corrections in Contempt of Order.” Dkt. 102. The Court has considered the pleadings filed regarding the motion and the remaining file.

19 Petitioner brings this case pursuant to 28 U.S.C. § 2254, challenging his conviction in  
20 state court of first degree assault. Dkt. 1. On February 8, 2017, a 42-page Report and  
21 Recommendation was filed, recommending that the petition be denied on the merits and a  
22 certificate of appealability not issue. Dkt. 93. Petitioner’s motion for an extension of time to file  
23 objections was granted. Dkt. 96. The Report and Recommendation is noted for consideration on  
24 June 23, 3017. *Id.*

## **FACTS RELEVANT TO THE MOTION**

2 On February 7, 2017, Petitioner filed two motions, seeking a court order requiring the  
3 Washington Department of Corrections (“DOC”) ship him his legal paperwork and typewriter to  
4 his new facility and prohibit the DOC from destroying the property. Dkts. 91 and 92. On  
5 February 15, 2017, Petitioner filed his “Amended Motion for Dept. of Correction’s [sic] to 1)  
6 Cease [unreadable] of destruction 2) Grant leave from postage/shipping demands 3) Convey  
7 Legal Property/Work Product to Petitioner’s Possession,” (Dkt. 95), and on February 21, 2017,  
8 he filed his “Motion to Supplement Argument Requesting Order Directing Dept of Correction’s  
9 [sic] to convey all of Petitioner Legal Property including Typewriter be Delivered to Grubham  
10 Free of Charge at Contempt Will Result in Monetary Penalty” (Dkt. 97).

11 Petitioner indicated in these pleadings that he was moved in late January 2017 from  
12 Stafford Creek Corrections Center to Clallam Bay Corrections Center and no longer had any of  
13 his legal materials or his typewriter. Dkts. 91, 92, 95, and 97. Petitioner sought an order (1)  
14 requiring the DOC ship all his personal property, including his legal materials and typewriter, to  
15 his new institution, Clallam Bay Corrections Center, and (2) requiring Clallam Bay Corrections  
16 Center to relinquish all property to him. *Id.* Petitioner contended that he paid the \$15.00 to ship  
17 his typewriter. *Id.* It appeared from his February 15, 2017 pleadings that Petitioner’s typewriter  
18 was shipped to Clallam Bay Corrections Center, but was being withheld from him until he paid  
19 another \$15.00 for “future shipment.” Dkt. 95, at 9. Petitioner “respectfully request[ed] the  
20 Court order Respondent’s [sic] by name to return inmate’s property or face civil penalty.” Dkt.  
21 97. The government did not respond.

22 || On February 28, 2017, the Court held that:

23 To the extent that Petitioner seeks an order that his property be transferred  
to Clallam Bay Corrections Center, his motions (Dkts. 91, 92, 95 and 97) should

1 be granted. It is unclear from the record in this case what, if any, of Petitioner's  
2 property has not yet been sent to Clallam Bay Corrections Center. In accord with  
3 the Washington State Supreme Court's holding in *Burton* [v. *Burton v. Lehman*,  
4 153 Wn.2d 416, 425, 103 P.3d 1230, 1235 (2005), as corrected (Oct. 24, 2005)],  
5 all of Petitioner's property that remains at Stafford Creek Corrections Center  
6 should be shipped to Clallam Bay Corrections Center.

7 To the extent that Petitioner moves for the return of his property to his  
8 possession (Dkts. 91, 92, 95, and 97) his motion should be granted, in part, and  
9 denied, in part. In the interest fully considering the issues raised in this case,  
10 Petitioner's typewriter and legal materials should be returned to him. The  
11 Assistant Attorney General assigned to this case should facilitate the return of  
12 Petitioner's typewriter (free of charge) and legal materials. Petitioner's motion  
13 for return of other personal materials should be denied. It is unclear what this  
14 property consists of, and the decision to return those materials is in the discretion  
15 of the Superintendent within the confines of state and federal law.

16 Dkt. 98.

17 On March 20, 2017, the government's attorney filed a status report and a declaration  
18 from Christopher Stone, the Property Sergeant with DOC at Clallam Bay Corrections Center.  
19 Dkts. 99 and 99-1. Sergeant Stone states that Petitioner's typewriter was returned to Petitioner  
20 on March 6, 2017, without charge, and the Petitioner's legal materials were being transported to  
21 Clallam Bay Corrections Center and would be available to Petitioner when they arrived. Dkt.  
22 99-1.

23 On March 26, 2017, Petitioner filed a pleading, acknowledging that his typewriter had  
24 been returned to him, free of charge. Dkt. 100. He also states that he received three of four  
boxes of legal materials. *Id.* Petitioner contends that he was informed that "this was all that was  
sent." *Id.*, at 3. Petitioner maintains that one box, containing the following items, is still  
missing:

- 25 1) All federal law books: i.e. a) Georgetown Law Journal, b) Fed. R. Civ. &  
26 Crim [sic] Proc, c) habeas corpus checklist, d) Dictionary (Black's Law Paper  
27 Back)
- 28 2) Merriam Webster Collegiate Dictionary
- 29 3) All certificates of completion – college certificates as well as programming  
30 certificates while at prison

1           4) Typewriter ribbon cartridges [unreadable], typing paper, highlighters, carbon  
2           paper, easel (all “legal” paraphernalia).

3           *Id.* He asserts that all of the items in #4 were in a “Tupperware ‘hobby box.’” *Id.*, at 4.

4           On March 30, 2017, the government’s attorney filed an additional report and the  
5           declaration of Todd Coleman, a Property Room Sergeant at Stafford Creek Corrections Center.  
6           Dkts. 101 and 101-1. Sergeant Coleman states that there was a single box of Petitioner’s  
7           property left at the Stafford Creek Corrections Center after March 26, 2017, which he shipped to  
8           Petitioner on March 28, 2017. Dkt. 101-1, at 3. He states that the remaining box contained  
9           receipts, blank paper, lined paper, empty folders, and copies of kites and grievances. *Id.*  
10           Sergeant Coleman maintains that the remaining box did not contain “highlighters, typewriter  
11           ribbon, cartridges, or legal books.” *Id.* Sergeant Coleman notes that in December of 2016,  
12           Petitioner’s possessions were searched and several “hobby craft” items were confiscated. *Id.*

13           On April 2, 2017, Petitioner filed the instant motion for an order of contempt be entered  
14           against the DOC for failing to follow the Court’s February 28, 2017 order and return “all legal  
15           property, free of charge,” to him. Dkt. 102. In this motion, Petitioner again generally asserts  
16           that he has not received all his legal property or his “Tupperware ‘hobby box’” that contained  
17           “legal paraphernalia.” *Id.*

## DISCUSSION

19           “Civil contempt is appropriate only when a party fails to comply with a court order that is  
20           both specific and definite.” *Balla v. Idaho State Bd. of Corr.*, 869 F.2d 461, 466 (9th Cir.  
21           1989)(*internal citations omitted*). “Failure to comply consists of not taking all the reasonable  
22           steps within one’s power to insure compliance with the order.” *Id.* (*internal quotations and*  
23           *citations omitted*).

1 Petitioner's motion to hold the DOC in contempt (Dkt. 102) should be denied. The  
2 government has taken all reasonable steps to comply with the February 28, 2017 order.  
3 Petitioner's reading of the February 28, 2017 order is too broad. DOC should not be held in  
4 contempt.

5 **ORDER**

6 It is **ORDERED** that:

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- Petitioner's Motion to Hold the Department of Corrections in Contempt of Order  
(Dkt. 102) **IS DENIED**.

9 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
10 to any party appearing *pro se* at said party's last known address.

11 Dated this 24<sup>th</sup> day of April, 2017.

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14 ROBERT J. BRYAN  
United States District Judge

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